

*United States Court of Appeals  
for the Second Circuit*



**APPELLANT'S  
APPENDIX**



**ORIGINAL**  
**75-1039**

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P15

In The  
**United States Court of Appeals**  
For The Second Circuit

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In the Matter of

MICHAEL F. COIRO, JR.,

Attorney for Thomas De Simone,

*Appellant.*

*On Appeal from the United States District Court for the Eastern  
District of New York*

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**APPELLANT'S APPENDIX**

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*Contemnor-Appellant*

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DOCKET ENTRIES

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
-----X  
THE UNITED STATES,

v.

No. 74 CR 336

THOMAS DE SIMONE.

-----X

Proceedings

5- 1-74 Before Dooling, J. - Indictment filed - ordered sealed by the Court. Bench Warrant ordered. Bench Warrant issued.

5- 2-74 Before Bartels, J. - Case called - deft. & counsel present - sealed Indictment ordered opened by the Court - deft. enters a plea of not guilty - deft's motion for Wade Hearing granted. Trial set down for 9-30-74 at 10:00 a.m. All motions within 21 days - bail set at \$15,000.00 surety bond.

5- 2-74 Notice of Appearance filed.

5-13-74 Magistrate's file 74 M 659 inserted into CR file.

6- 3-74 Notice of readiness for trial filed.

10- 1-74 Before Bartels, J. - Case called - deft. & counsel Michael Coiro present - On motion of A.U.S.A. Meyerson, court orders count 3 of the Indictment dismissed. Wade Hearing ordered and begun - Gov't. rests - deft. rests - Hearing concluded - deft's motion to suppress identification - denied - Trial ordered and begun - Jurors selected and sworn - Trial

cont'd. to Oct. 2, 1974.

10- 2-74 Before Bartels, J. - Case called - trial re-sumed - trial cont'd. to October 3, 1974.

10- 3-74 Before Bartels, J. - Case called - deft. and counsel present - trial resumed. Deft's motion to dismiss for failure of gov't to establish a prima facie case - denied - deft's motion for mistrial denied - deft's motion for a mis-trial on the ground of prejudicial statements by the gov't in summation denied - Judge charges jury - Marshals sworn - Jury retires to deliberate - Jury returns and reports that they are divided - Court orders mistrial - trial set down for 11/18/74 at 10:00 A.M.

10- 3-74 By Bartels, J. - Order of sustenance filed.

11- 7-74 Stenographers transcript dated 10/2/74 and 10/3/74 filed.

11-25-74 Before Bartels, J. - Case called - deft. Thomas De Simone present - counsel not present - trial adjd. to Dec. 2, 1974 - deft. to obtain counsel by that date.

12- 2-74 Affirmation of Michael F. Coiro, Jr. filed (deft. Thomas De Simone).

12- 2-74 By Bartels, J. - Notice and Order filed to Michael F. Coiro, Jr. re deft. Thomas De Simone.

12- 2-74 Before Bartels, J. - Case called - deft. pre-sent - counsel not present - trial adjd. to Jan. 6, 1975 at 10:00 a.m.

12-10-74 By Bartels, J. - Order to Show Cause, ret. Jan. 16, 1975 at 4:30 p.m. why counsel should not be punished for contempt of court pursuant to 18, U.S.C. Sec. 401(3) and Rule 42(b) of Federal Rules of Criminal Procedure.

1- 6-75 Before Bartels, J. - Case called - trial ordered and begun - jurors selected and sworn - trial continued to 1-7-75 at 10:30 a.m.

1- 7-75 Before Bartels, J. - Case called - trial resumed - deft's motion for mistrial and withdrawal of juror - denied - deft. renews motion for mistrial, etc. - motion denied - deft's motion for a directed verdict - denied - jury retires at 3:05 for deliberations - jury returns with a verdict of guilty to both counts of the Indictment - deft's motion to set aside verdict is denied - govt's motion that deft. be remanded - denied - bail set at \$30,000 surety bond - trial concluded - sentence adjd. without date.

1-13-75 By Bartels, J. - Order of sustenance filed (lunch for 1-7-75) received in Clerks Office for filing Jan. 13, 1975.

1-16-75 Before Bartels, J. - Case called - hearing ordered and begun - Hearing concluded - Court orders Michael Coiro, Esq. to pay costs of \$1,000.00 for his failure to appear as directed. Costs to be paid within 6 months.

1-27-75 Notice of Appeal filed (from Ordered entered on 1-16-75 wherein the respondent M. Coiro, Esq. was assessed court costs of \$1,000).

1-27-75 Docket entries and duplicate of Notice mailed to the C of A.

2-11-75 Before Bartels, J. - Deft. De Simone reports to Magistrate Catoggio - is unable to meet bail conditions in above actions - bail ordered terminated - deft. remanded.

3- 3-75 Order rec'd and filed from the C. of A. that the record must be docketed on or before March 10, 1975, etc.

3- 5-75 Record on appeal certified and mailed to C. of A.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

4

-----x  
THE UNITED STATES OF AMERICA

:

-against-

:

74-CR-336

THOMAS DE SIMONE,

:

Defendant.

:

-----x  
In the Matter of

:

MICHAEL F. COIRO, JR.  
Attorney for Thomas DeSimone

ORDER TO SHOW CAUSE

-----  
BARTELS, D.J.

TO: Michael F. Coiro, Jr., Esq.  
Attorney for Thomas DeSimone  
118-18 Union Turnpike  
Kew Gardens, N.Y. 11415

WHEREAS, pursuant to an order of this Court made in open Court on the 3rd day of October, 1974, in your presence and to which you as the attorney for Thomas DeSimone agreed, the above-mentioned case was set down for trial for Monday, November 18, 1974, at 10 A.M., and was thereafter with your agreement adjourned to Monday, November 25, 1974, at 10 A.M.; and

WHEREAS, on or about November 20, 1974, you telephoned my law clerk asking for an adjournment of the case for several weeks on the ground that you were then presently engaged in the trial of another case in the Supreme Court, Queens County, and would not be ready for the trial of the above-mentioned case on November 25, 1974. This request for an adjournment was refused; and

WHEREAS, on Monday, November 25, 1974, at 10 A.M., this Court called the above-entitled case for trial, at which time there

were present not only the Court, a court reporter, a deputy clerk of the Court, and Thomas DeSimone, but also the attorney for the United States Government with approximately six or seven witnesses who were subpoenaed and were available for the trial, and in addition, a jury had been ordered for the empanelling of at least thirteen jurors for a minimum of two days; and

WHEREAS, you, in disobedience of the Court's order, failed to appear, thus causing considerable expense and inconvenience to the Court and others involved in this case; and

WHEREAS, the Court then set this case down for trial for Monday, December 2, 1974, at 10 A.M., and so notified your client and also notified you by Certified Mail; and

WHEREAS, on December 2, 1974, you again failed to appear but instead submitted an affidavit that you were engaged in the trial of the same case in the Supreme Court, Queens County; and

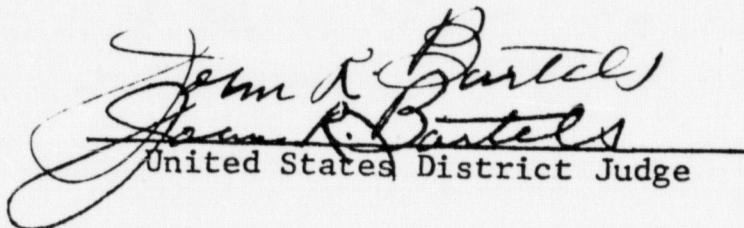
WHEREAS, the Court was thereupon compelled to set this case down for trial on January 6, 1975; and

WHEREAS, your disobedience, without any valid or acceptable excuse, of the orders of this Court and your violation of the Rules of this Court requiring appearance of counsel on any date set by the Court for hearings (see Rule 7 of the Individual Assignment and Calendar Rules of the United States District Court for the Eastern District of New York) have seriously interfered with this Court's proceedings in that it was unable, due to your sudden and inexcusable failure to appear, to schedule another case for trial for the week of November 25, 1974, and also for the beginning of the week of December 2, 1974; and

WHEREAS, your conduct has seriously interfered with the administration of justice;

NOW, THEREFORE, YOU ARE HEREBY ORDERED by this Court  
to appear before this Court, pro se or with an attorney, on  
Thursday, January 16, 1975, at 4:30 P.M., in Courtroom No. 4,  
United States Courthouse, 225 Cadman Plaza East, Brooklyn, New  
York, to show cause why you should not be punished for contempt  
of court, pursuant to 18 U.S.C. §401(3) and Rule 42(b) of the  
Federal Rules of Criminal Procedure, 18 U.S.C.

Dated: Brooklyn, N.Y.,  
December 9, 1974.

  
John R. Bartels  
United States District Judge

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

IN THE MATTER OF :

MICHAEL COIRO

: 74 CR 336

United States Courthouse  
Brooklyn, New York  
January 16, 1975

BEFORE:

HONORABLE JOHN R. BARTELS, U.S.D.J.

ORDER TO SHOW CAUSE TO PUNISH FOR CONTEMPT.

HENRI LE GENDRE  
ACTING OFFICIAL COURT REPORTER

1 APPEARANCES:  
23 DAVID G. TRAGER, ESQ.,  
4 United States Attorney for the  
Eastern District of New York5 BY: HAL MEYERSON, ESQ.,  
6 Assistant United States Attorney/  
78 MICHAEL COIRO, JR.,  
9 Attorney Pro Se.

10 \* \* \* \* \*

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2           THE COURT: This is a civil hearing in  
3         the matter of Michael Coiro, order to show cause  
4         to punish for contempt.

5           Mr. Coiro, you got this order to show cause  
6         served on you, did you not?

7           MR. COIRO: Yes, I did, your Honor.

8           THE COURT: And you saw the charges in it?

9           MR. COIRO: Yes, I did, your Honor.

10          THE COURT: Do you deny the charges?

11          MR. COIRO: Judge, it's not a question of--  
12         in this respect, your Honor, I was not here on  
13         the 25th.

14          THE COURT: Let me go over it.

15          Pursuant to an order of the Court, which  
16         was made in open court on the third day of October,  
17         1974, in your presence, and to which you as the  
18         attorney for Thomas B. Simone, agreed in the  
19         above-mentioned case, that is United States  
20         against Thomas Simone, was set down for trial on  
21         November 18, 1974 at ten A.M. And thereafter,  
22         with your agreement, it was adjourned to November  
23         25, 1974.

24          MR. COIRO: That is correct.

25          THE COURT: And on November 20, 1974, you

2 telephoned my law clerk asking for an adjournment  
3 of the case for several weeks on the ground that  
4 you were then presently engaged in the trial of  
5 another case in the Supreme Court, Queens County,  
6 and you would not be ready for trial in the above-  
7 mentioned case on November 25, 1974, and this  
8 request was refused.

9 As a matter of fact, as I understand the  
10 statement you made to me the other day, this  
11 second case in Queens County, arose after you had  
12 already been ordered by this Court, to be ready  
13 on November 25?

14 MR. COIRO: Judge Bartels, that is absolutely  
15 correct in every respect.

16 THE COURT: I am going to have difficulty  
17 getting into any disagreement with you, Mr. Coiro.

18 Isn't it true, on November 25, Monday, 1974,  
19 at ten A.M ., this Court called the above entitled  
20 trial, at which time, there was present, not only  
21 the Court, a Court Reporter, a Deputy Clerk of  
22 the Court, and Thomas Di Simone, but also the  
23 attorney for the United States Government, who is  
24 Hal Meyerson, and he is here before me today, with  
25 approximately six or seven witnesses, who were  
subpoeneaed and were available for the trial, and in

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11

2

addition, a jury had been ordered for the empanelling  
of at least 13 jurors for a minimum of two days?

4

MR. COIRO: I was not here if your Honor says  
that happened.

6

THE COURT: Here is Mr. Meyerson.

7

MR. COIRO: I don't dispute your Honor. If  
your Honor tells me that's what happened, that's  
what happened.

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THE COURT: Now, I also tell you, as it  
indicates in this, whereas clause, that I was ready  
to try the case, and of course, I was just left  
in the lurch. I had no case to try, and this caused  
considerable expense and inconvenience to the Court  
and the witnesses that Mr. Meyerson had brought  
down and inconvenience to him, and thereafter, I  
set the case down for trial Monday December 2, 1974,  
ten A.M., and I notified your client, and notified  
you by certified mail, and on that day, you again  
failed to appear, but instead submitted an affidavit  
that you were engaged in a trial of the same case  
in Supreme Court, Queens County; is that correct?

MR. COIRO: That is correct, your Honor.

If I might, your Honor --

THE COURT: You may add to it or subtract

12

1 from it.

2  
3 MR. COIRO: I just wanted to add to that in  
4 this respect your Honor; that the matter I was  
5 engaged in in Queens County, People of the State  
6 of New York against Joseph Zevrizzo was a five  
7 defendant case, multiple defendant case, involving  
8 three other lawyers besides myself.

9 That matter commenced on the 18th of November.

10 THE COURT: But you had already agreed on  
11 the third day of October that this Di Simone case --

12 MR. COIRO: Which started on the 25th -- yes,  
13 Judge Bartels; and I did explain to Mr. Justice  
14 Moses Weinstein, Supreme Court.

15 Judge, Justice Weinstein said that he had  
16 the four lawyers before him, that this was a multiple  
17 defendant case, that it was going to go to trial, and  
18 it did start on that very date, your Honor.

19 In fact, I did not call your chambers until  
20 Wednesday, because, Judge, there were three negotiations  
21 between Monday and Wednesday, and myself, Judge  
22 Weinstein, the other counsel thought that the case  
23 would ultimately be disposed of by way of a plea.

24 It did not, and on Wednesday, when I knew  
25 that it was definitely going to proceed to trial, I

1  
2       then called your Honor's chambers, to notify your  
3       Honor that I knew the case would take at least  
4       three weeks to try.

5               I might also add, your Honor, that I had  
6       Mr. Justice Weinstein, with his permission, he allowed  
7       his secretary, Mr. Ronnie Harnish to try and contact  
8       you.

9               He tried to contact your Honor the day after  
10      Thanksgiving, when I was ordered to be here on December  
11      second, that was after Mr. Di Simone had appeared.

12             THE COURT: You already failed on November 25.

13             MR. COIRO: That's right, Judge.

14             I wasn't here on November 25th. And the day  
15      after Thanksgiving, we worked that day in Supreme  
16      Court, and Mr. Harnish tried to contact your Honor,  
17      at Judge Weinstein's request.

18             Judge Weinstein wanted to explain to your Honor  
19      where I was, what I was actually doing.

20             THE COURT: ..However, this Court is placed  
21      in a position where he cannot proceed and a considerable  
22      amount of time is lost because one cannot call up the  
23      last minute and bring in a jury or other lawyers to try  
24      a case which is not set down for trial.

25             So this is a case of not being in any way angry,

1                   but being compelled to waste the Government's time  
2                   and money; and also to put so many others to an  
3                   inconvenience; that the administration of justice  
4                   is seriously interfered with.  
5

6                   In cases like yours, when they occur, it is  
7                   customary for counsel to indicate right away, that  
8                   is not -- let's see. On November 20, you telephoned,  
9                   asked for an adjournment. I just denied that. I  
10                  couldn't wait until the last minute and grant an  
11                  adjournment.

12                  This matter might have been able to be worked  
13                  out by a phone call to the Chief Judge of the  
14                  Appellate Division of the Second Department, Frank  
15                  Gullota.

16                  In cases like this, courtesy between the two  
17                  Courts have always been observed, and where one court  
18                  has put down the case for trial, before the Court  
19                  the other Court has set a case down for trial, the  
20                  first Court has precedence, and this has been done  
21                  before.

22                  The fact that Judge Weinstein had a multiple  
23                  defendant case, does not justify him to put Di Simone's  
24                  case off the first row and proceed. We cannot try  
25                  cases like that. We cannot have comity between the  
                      two branches of the Judiciary. If this were permitted,

1                                 15

2                                 Judges in this Court would be in disarray, would  
3                                 be in complete confusion, and could not carry out  
4                                 our duties which we are required to carry out, and  
5                                 for that reason, we have adopted various rules  
6                                 and practices.

7                                 These were not observed in this case, and  
8                                 that's the problem. That's why I was definitely  
9                                 prevented from performing my duties that week.

10                                 Now, if this were not an assignment calendar  
11                                 business, I mean system, perhaps your sudden request  
12                                 for adjournment could be- granted, because we  
13                                 generally had a number of cases ready on the master  
14                                 calendar system.

15                                 Where one case wasn't ready, the Judge in  
16                                 Part I could assign another one, and while it might  
17                                 have been disappointing, it could not harm anyone.

18                                 Now, I am giving you this order to show cause,  
19                                 not because I want in any way to impose sanctions  
20                                 on youfor my sake, but I want to protect this Court.

21                                 I am representing the Court on the Court as  
22                                 a whole.

23                                 I must say I discussed this matter with the  
24                                 other Judges. It's not a very pleasant thing for  
25                                 me to do, but of course, you must remember, this  
                                       violation of the rules of this Court, which require

2 appearance of counsel on a date set by the Court  
3 for a hearing, seriously interfered with the  
4 Court proceedings, in that it's unable due to  
5 this sudden, and I think, under the circumstances,  
6 was an inexcusable failure to appear, to schedule  
7 another case for trial for the week of November 25,  
8 1974; and also, indeed, for the week of December 2,  
9 1974.

10 Now, it's not with any degree of pleasure  
11 that I ask you to show cause, why you shouldn't be  
12 punished for contempt. Indeed, I think I would  
13 rather have somebody else preside over this particular  
14 hearing, and I would rather omit it completely, I  
15 cannot.

16 It is my duty to set the rules straight so  
17 that others cannot follow. I think this violation  
18 of our rules for orderly procedure of the Court  
19 business -- I frankly intend, Mr. Coiro, unless you  
20 have some defense to offer, that I haven't been able  
21 to hear so far, although I will say, I understand  
22 that you perhaps were in an embarrassing situation.  
23 I don't think that can excuse the lost time, that  
24 this Court sustained by reason of this sudden  
25 adjournment.

1  
2 If you have anything you wish to say or  
3 any defense you wish to interpose, to some of the  
4 charges, which I have made, I would like to hear  
5 them.

6 MR. COIRO: The only thing that I could say  
7 to your Honor, the matter that I went to trial on  
8 in Queens County, had been on in Queens County a  
9 number of times.

10 THE COURT: But never set down specifically,  
11 because that's what you told me the other day.

12 MR. COIRO: Their system is different, in  
13 this respect, from the Federal Court.  
14 They mark it -- each time it's adjourned, it's  
15 adjourned on the trial calendar to a trial part, in  
16 the same part. It stays before the same Judge, as  
17 a case does here, and is adjourned on the trial  
18 calendar.

19 I don't have my '74 book as to when the  
20 last time that I appeared on that matter.

21 THE COURT: If I follow your reasoning, this  
22 could happen all the time, could happen all the  
23 other times with other lawyers.

24 It has not happened with other lawyers, and  
25 actually there is a solution for that proposition,

18

1 which is clearly understood, certainly between the  
2 Judges of the Federal, State Courts.

3 When one case is specifically set down, the  
4 other branch of the Judiciary in the State has no  
5 right to come in and take that lawyer away so that  
6 the Federal Court or State Court, as the case may be,  
7 is just without a trial.

8 You can't do that.

9 This thing can be worked out. If there is  
10 some type of cooperazion.

11 If you had failed to appear before Judge  
12 Weinstein, I could have taken care of it. If you had  
13 come here then I would have gone over or called up,  
14 see the Chief Judge of the Appellate Division, but  
15 this sort of situation cannot happen.

16 It cannot continue, not for my sake, but for  
17 anybody else.

18 MR. COIRO: I can't quarrel with what your  
19 Honor says about that, but Judge, I had appeared  
20 there on the prior Monday on the 18th, when he said  
21 to me, it's going to trial, we are sending for a  
22 panel.

23 THE COURT: Well, yes, yes. You should  
24 have told him it can't go to trial, because I  
25 am engaged for the 25th. You didn't tell him that.

2                   MR. COIRO: I don't like to bring it down  
3                   between an issue -- between a Federal Court Judge  
4                   and a --

5                   THE COURT: It has to be. If you don't like  
6                   to bring it down, then just appear before this  
7                   Court and try your case. It won't bring you down,  
8                   any conflict between the two.

9                   MR. COIRO: I think, Judge Bartels, you know  
10                  me in this respect. I try to appear when I am  
11                  supposed to appear.

12                  THE COURT: This kind of business cannot  
13                  go on.

14                  MR. COIRO: I have tried cases, whether it's  
15                  Federal, State, I don't waste time. I don't  
16                  procrastinate. I love to try cases. I just came  
17                  from Mineola where I am trying a case, and I made it  
18                  here, I broke speed records to get here, on time.  
19                  I try cases all the time.

20                  THE COURT: What are we going to do? You  
21                  could take it as cost. You cannot walk out of here  
22                  without some type of sanction. I could charge it  
23                  to you as cost, or I could charge you as I had to do  
24                  once before -- like I did once before. Fergus Norton,  
25                  do you know him?

1  
202  
MR. COIRO: No.3  
THE COURT: There, I imposed a fine on him.4  
One way I find you guilty of contempt, and the  
5  
other way, I will charge you cost, whatever you wish.6  
MR. COIRO: I never had this done in twenty  
7  
years that I have been admitted, never even had  
8  
a complaint at the Bar Association.  
!9  
I have had an unblemished record.10  
THE COURT: We have to run our Court. The  
11  
State Court must know it and the lawyers that go  
12  
in both Courts know it.13  
How many people did you have here that morning  
14  
all ready for trial?15  
MR. MEYERSON: It would have to be five to  
16  
ten, I don't remember.17  
Everyone that appeared here, plus some  
18  
witnesses from out of State who were coming as to  
19  
the similar acts.20  
THE COURT: We had at least 13 jurors, two  
21  
hundred and sixty dollars for them.22  
That's thrown right out the window.23  
MR. COIRO: Your Honor, might my partner  
24  
approach the Bench? This is Mr. Quagliata.25  
Judge Bartels, my partner has just refreshed

2 my recollection.

3 Just state to your Honor, I did tell Judge  
4 Weinstein that I did have to appear before your  
5 Honor to try this case.

In all honesty and fairness to your Honor,  
I have to state that I don't make a misstatement  
to any Court. I don't know whether I told that to  
Judge Weinstein on the record, or when we were  
discussing it in his chambers, and I am telling  
you that with all candor.

12 THE COURT: Oh, well, I believe you.

13 MR. COIRO: He ordered me to proceed anyway.  
14 He had the other three lawyers there.

15 THE COURT: If you had told him like you told  
16 me --

17 MR. QUAGLIATA: Then he would have held him  
18 in contempt.

19 THE COURT: You have to work it out differently.  
20 You are in this position -- he is in the position,  
21 because he didn't work it out right.

He is in contempt of this Court.

I don't care what he would have done. This  
has happened to other lawyers before where they had  
these conflicts and they handle it entirely different.

1                   They come to this Court and they say, listen,  
2                   this is what this Judge is going to do to me, and  
3                   then I have time, and I speak to the Chief Judge  
4                   of the Appellate Division and something happens one  
5                   way or the other.

6  
7                   This happened several times, because it's  
8                   an occupational hazard. You didn't handle it right.  
9                   You have to appear here, or you have to get my  
10                  excuse.

11                  Now, I am not an unreasonable person, if I  
12                  have time enough, not the twentieth of November, if  
13                  I knew on the eighteenth of November, two weeks, I  
14                  could have gotten a case here, made some effort.  
15                  I could have talked to Judge Culotta, but this is  
16                  no legal excuse to put this Court through that  
17                  wringer.

18                  I visualize what happened, but I also know  
19                  what happened to this Court that day. I also know  
20                  the expenses., I know how shocking it was with a  
21                  Clerk here, Reporter here, Meyerson and the jury is  
22                  there, and witnesses, and no show, and here we are  
23                  ready, I can't do anything.

24                  Is that right, Mr. Meyerson?

25                  MR. MEYERSON: Yes, your Honor.

1  
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**23**

THE COURT: What was I supposed to do, permit  
that?

This Court will not permit that. It cannot  
permit that.

Now, this is no pleasure for me at all. As  
I said, I wish somebody else had it. On the other  
hand, I wish that somebody else was frustrated on  
November 25th; and as between the two, Judge Weinstein  
has a different system, he could have and should have  
made an effort and I would have seen if you, Mr.  
Coiro, came up and was stronger and said I want to  
try this case and I want you to protect me from a  
contempt proceeding from Judge Weinstine.

However, he can't protect you from a contempt  
proceeding before me. You just bet on the wrong horse.

MR. COIRO: I am not a gambler, and one thing,  
it will never happen again.

THE COURT: Do you want it as cost or a fine?

MR. COIRO: I would like to keep my record as  
clean as I can.

THE COURT: I offer you that because I don't  
want to fine anyone.

I will have to charge you one thousand dollars  
costs for this case.

1 and that won't exactly barely make the expenses..  
2

3 Certainly my loss of time is worth more to  
4 the Government, but don't forget, we have actually  
5 lost in witness fees and jurors fees at least.  
6 That jury was there for two days, two hundred and  
7 sixty by two you have five hundred and twenty alone.

8 I don't think that's a big fine. It will  
9 be cost. I will just charge you cost and that's  
10 without taint, and if you do it again, it won't be  
11 any opportunity to do it again, of course I'll  
12 impose the fine.

13 I hate to do that. I did that once. We just  
14 put on some evidence, deliberate violations of the  
15 rules was proven directly.

16 MR. COIRO: When do we have to pay?

17 THE COURT: Take your time, pay it within  
18 six months.

19 MR. COIRO: I appreciate the fact that you did  
20 it that way.

21 THE COURT: I thought it might be a more  
22 gracious way to get you out of a jam. You didn't  
23 handle it right.

24 MR. COIRO: I served, I tried to serve  
25 two masters and I just guess you can't.

1  
2 THE COURT: I think you could do it in  
3 three installments.

4 MR. COIRO: I will try and do it as fast  
5 as I can.

6 (Whereupon, the Court stood in recess  
7 in this matter.

8 Court was adjourned.)

9 \* \* \* \* \*

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**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

In re  
**MICHAEL F. COIRO, JR.,**  
 Attorney for Thomas De Simone,  
 Appellant.  
 against

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

I, Victor Ortega, being duly sworn,  
 deposes and says that deponent is not a party to the action, is over 18 years of age and resides at  
 1027 Avenue St. John, Bronx, New York  
 That on the 9th day of April 1975 X<sup>1975</sup> at 225 Cadman Plaza, Brooklyn, N.Y.  
 deponent served the annexed Appendix upon

David G. Trager

the attorney in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Attorney(s) herein,

Sworn to before me, this 9th  
 day of April 1975 X<sup>1975</sup>

*Victor Ortega*  
Print name beneath signature

VICTOR ORTEGA

*Robert T. Brin*

ROBERT T. BRIN  
 NOTARY PUBLIC, STATE OF NEW YORK  
 NO. 31 - 0410850  
 QUALIFIED IN NEW YORK COUNTY  
 COMMISSION EXPIRES MARCH 30, 1978  
 (1975)